

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FORDHAM HILL OWNERS CORPORATION  
Employer

and

Case 02-RC-098661

UNITED FEDERATION OF SPECIAL POLICE  
and SECURITY OFFICERS, INC.  
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Supplemental Decision and Certification of Representative is denied as it raises no substantial issues warranting review.<sup>1</sup>

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

Dated, Washington, D.C., June 18, 2013.

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<sup>1</sup> The Employer contends in its election objections that that the Board previously erred in denying its Request for Review and in directing an election because the Board does not have a valid quorum under *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013), pet. for cert. pending, No. 12-1281 (filed Apr. 25, 2013). For the reasons stated in our April 29, 2013 Decision and Order, and in *Bloomingtondale's*, 359 NLRB No. 113 (2013), these arguments are rejected.

We likewise reject the Employer's related contentions in its election objections that the Regional Director erred in issuing a Decision and Direction of Election, and the Board Agent erred in conducting the election because the Regional Director lacked authority to process representation petitions if the Board lacked a quorum. The Board's delegation of its decisional authority in representation cases to Regional Directors dates back to 1961 and has never been withdrawn. See 26 Fed. Reg. 3889 (May 4, 1961). Consistent with the 1961 Delegation, NLRB Regional Directors remain vested with the authority to conduct elections and certify their results, regardless of the Board's composition at any given moment. Furthermore, in *New Process Steel*, the Supreme Court expressly stated that such delegations were not affected by its decision, and, following that decision, no fewer than three courts of appeals have upheld the principle that Board delegations of authority to non-members remain valid during a loss of quorum by the Board. See *New Process Steel L.P. v. NLRB*, 130 S.Ct. 2635, 2643 n.4 (2010); *Frankl v. HTH Corp.*, 650 F.3d 1334, 1354 (9th Cir. 2011); *Osthus v. Whitesell Corp.*, 639 F.3d 841, 844 (8th Cir. 2011); *Overstreet v. El Paso Disposal, LP*, 625 F.3d 844, 853 (5th Cir. 2010).